

F97000006859

CARLTON, FIELDS, WARD, EMMANUEL,  
SMITH & CUTLER, P.A.  
ATTORNEYS AND COUNSELORS AT LAW  
215 S. MONROE - 5th FLOOR  
TALLAHASSEE, FL 32301

FIRST  
UNION

FIRST UNION NATIONAL BANK OF FLORIDA  
TALLAHASSEE, FL 32303

15602

NUMBER  
15602

63-2/630

PAY: ONE HUNDRED TWENTY-TWO AND 50/100 DOLLARS

DATE  
12/24/97

AMOUNT  
\*\*\*\*\*\$122.50

TO THE SECRETARY OF STATE  
ORDER  
OF

CARLTON, FIELDS, WARD, EMMANUEL, SMITH & CUTLER, P.A.  
GENERAL ACCOUNT  
VOID AFTER 90 DAYS

*[Signature]*

AUTHORIZED REPRESENTATIVE(S)  
2 SIGNATURES REQUIRED FOR AMOUNTS OVER \$1,000.00

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-01/07/98-01071-013  
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FILED  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
DEC 24 PM 1:30

merger

12/26/97

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38

ARTICLES OF MERGER  
Merger Sheet

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MERGING:

APPSOURCE CORPORATION, a FL corp., #P95000061372

INTO

**AS ACQUISITIONS CORP. which changed its name to APPSOURCE  
CORPORATION, a Delaware corporation, F97000006859**

File date: December 24, 1997

Corporate Specialist: Susan Payne

**ARTICLES OF MERGER  
OF APPSOURCE CORPORATION  
INTO AS ACQUISITIONS CORP.**

FILED  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
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Pursuant to the provisions of Sections 607.1105 and 607.1107 of the Florida Statutes, and Sections 251 and 252 of the Delaware General Corporation Law, these Articles of Merger provide as follows:

**ARTICLE I  
Names and Surviving Corporation**

The names and states of incorporation of the corporations which are parties to the merger are:

<u>Name</u>	<u>State of Incorporation</u>
AppSource Corporation	Florida
AS Acquisitions Corp.	Delaware

AS Acquisitions Corp. shall be the surviving corporation.

**ARTICLE II  
Plan of Merger**

The Plan of Merger is attached hereto as Exhibit A.

**ARTICLE III  
Approval of the Plan of Merger**

The Plan of Merger was adopted and approved, in accordance with Florida law, by AppSource Corporation on December 24, 1997, by unanimous written consent of all of the directors, pursuant to which the board of directors of AppSource Corporation adopted the Plan of Merger and submitted it for vote by the shareholders with a recommendation that it be approved. On the same date, at least a majority of all of the votes entitled to be cast of each class of shares entitled to vote, approved the Plan of Merger by written consent.

The Plan of Merger was adopted by AS Acquisitions Corp. on December 24, 1997, in accordance with Delaware law, by written consent of all of the directors and the sole

shareholder of AS Acquisitions Corp., pursuant to which the board of directors of AS Acquisitions Corp. unanimously adopted the Plan of Merger and submitted it to the sole shareholder for its approval. On the same date, the sole shareholder of AS Acquisitions Corp. approved the Plan of Merger by written consent.

**ARTICLE IV**  
**Effective Date of Merger**

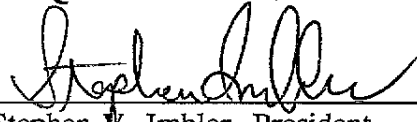
The merger shall be effective on the date of filing of these Articles of Merger by the Secretary of State of the State of Delaware and the Department of State of the State of Florida.

Dated this 24 day of December, 1997.

**APPSOURCE CORPORATION**

By:   
Richard Daley, President

**AS ACQUISITIONS CORP.**

By:   
Stephen V. Imbler, President

**PLAN OF MERGER OF  
APPSOURCE CORPORATION WITH AND INTO  
AS ACQUISITIONS CORP.**

PLAN OF MERGER ("Plan of Merger") dated December 24, 1997, describing a merger by and between APPSOURCE CORPORATION, a Florida corporation ("AppSource"), having its principal office at Citadel International 250, 5950 Hazeltine National Drive, Orlando, Florida 32822 and AS Acquisitions Corp., a Delaware corporation ("Acquisitions"), having its principal office at 1344 Crossman Avenue, Sunnyvale, California 94089.

**W I T N E S S E T H**

WHEREAS, AppSource is a Florida corporation, the authorized capital stock of which consists of 1,000,000 shares of voting common stock, \$0.01 par value per share, and 1,000,000 shares of non-voting common stock, \$0.01 par value per share (the voting common stock and the non-voting common stock are together referred to as the "AppSource Common Stock"), of which, at the date hereof, 1,061,110 shares (392,611 voting and 668,499 non-voting) are issued and outstanding;

WHEREAS, Acquisitions is a wholly-owned subsidiary of Arbor Software Corporation, a Delaware corporation ("Arbor");

WHEREAS, the respective Boards of Directors of AppSource, Acquisitions, and Arbor deem the merger of AppSource with and into Acquisitions, under and pursuant to the terms and conditions herein set forth or referred to, desirable and in the best interests of the respective corporations, and the respective Boards of Directors of AppSource, Acquisitions and Arbor have adopted resolutions approving the Agreement and Plan of Merger and Reorganization dated as of December 16, 1997, by and among Arbor, Acquisitions, and AppSource ("Plan of Reorganization"), providing for all the terms of the merger of AppSource with and into Acquisitions; and

WHEREAS, the Plan of Reorganization and this Plan of Merger providing for the merger pursuant to Sections 607.1101 and 607.1107 of the Florida Statutes and Section 252 of the Delaware General Corporation Law have been approved by the Board of Directors of each of the parties thereto, and have been approved by the shareholders of AppSource and Acquisitions.

NOW, THEREFORE, in consideration of the premises and mutual agreements herein contained, the parties do hereby agree that the Plan of Merger shall be as follows:

## **ARTICLE I**

### **MERGER AND NAME OF SURVIVING CORPORATION**

Subject to the terms and conditions of this Plan of Merger, at the Effective Time (as defined in Article VII), AppSource shall be merged with and into Acquisitions pursuant to the provisions of, and with the effect provided under, Florida and Delaware law (the "Merger"). At the Effective Time, the separate existence of AppSource shall cease and Acquisitions, as the surviving entity, shall continue unaffected and unimpaired by the Merger (Acquisitions as existing at and after the Effective Time being hereinafter sometimes referred to as the "Surviving Corporation"). The name of the Surviving Corporation shall be "AppSource Corporation."

## **ARTICLE II**

### **ARTICLES OF INCORPORATION AND BYLAWS**

The Articles of Incorporation and the Bylaws of Acquisitions in effect immediately prior to the Effective Time shall be the Articles of Incorporation and the Bylaws of the Surviving Corporation, in each case until amended in accordance with applicable law.

## **ARTICLE III**

### **BOARD OF DIRECTORS AND OFFICERS**

At the Effective Time, the Board of Directors and Officers of the Surviving Corporation shall consist of those persons serving as directors and officers of Acquisitions immediately prior to the Effective Time.

## **ARTICLE IV**

### **CAPITAL**

Each share of Capital Stock of the Surviving Corporation issued and outstanding immediately prior to the Effective Time shall, at the Effective Time, continue to be issued and outstanding, and shall be an identical outstanding share of Capital Stock of the Surviving Corporation.

## ARTICLE V

### CONVERSION AND EXCHANGE OF SHARES; FRACTIONAL SHARE INTEREST; DISSENTER'S RIGHTS

#### 5.1 Conversion of Shares.

(a) Subject to the provisions of this Article V, at the Effective Time, by virtue of the Merger and without any action on the part of Arbor, Acquisitions, AppSource, or their respective shareholders, each share of AppSource Common Stock outstanding immediately prior to the Effective Time shall be converted into the right to receive (A) \$3.02 in cash and (B) the "Applicable Fraction" (as defined in Section 5.1(b)(i)) of a share of the Common Stock (par value \$.001 per share) of Arbor ("Arbor Common Stock").

(b) For purposes of this Plan of Merger:

(i) The "Applicable Fraction" shall be the fraction: (A) having a numerator equal to Three Million Two Hundred Thousand Dollars (\$3,200,000) and (B) having a denominator equal to the amount determined by multiplying (1) the AppSource Share Amount (as defined in Section 5.1(b)(ii)) by (2) the Designated Arbor Stock Price (as defined in Section 5.1(b)(iii)).

(ii) The "AppSource Share Amount" shall be the aggregate number of shares of AppSource Common Stock outstanding immediately prior to the Effective Time (including, without limitation, any such shares that are subject to repurchase option or risk of forfeiture or other similar conditions under any restricted stock purchase agreement or other agreement).

(iii) The "Designated Arbor Stock Price" shall be the average of the closing sale prices of a share of Arbor Common Stock as reported on the NASDAQ National Market for each of the thirty consecutive trading days immediately preceding the Closing Date (as defined in the Plan of Reorganization); *provided, however*, that if such thirty-day trading average shall be less than twenty-eight dollars (\$28.00), the Designated Arbor Stock Price shall be twenty-eight dollars (\$28.00); *provided, further*, that if such thirty-day trading average shall be more than thirty-eight dollars (\$38.00), the Designated Arbor Stock Price shall be thirty-eight dollars (\$38.00).

(c) If any shares of AppSource Common Stock outstanding immediately prior to the Effective Time are unvested or are subject to a repurchase option, risk of forfeiture or other condition under any applicable restricted stock purchase agreement or other agreement with AppSource, then the shares of Arbor Common Stock issued in exchange for such shares of AppSource Common Stock will also be unvested and subject to the same repurchase option, risk of forfeiture or other condition, and the certificates representing such shares of Arbor Common Stock may accordingly be marked with appropriate legends.

**5.2 Closing of AppSource's Transfer Books.** At the Effective Time, holders of certificates representing shares of AppSource's Common Stock that were outstanding immediately prior to the Effective Time shall cease to have any rights as shareholders of AppSource, and the stock transfer books of AppSource shall be closed with respect to all shares of such Common Stock outstanding immediately prior to the Effective Time. No further transfer of any such shares of AppSource's Common Stock shall be made on such stock transfer books after the Effective Time.

**5.3 Exchange of Certificates.**

(a) At or as soon as practicable after the Effective Time, Arbor will send to the holders of AppSource stock certificates (i) a letter of transmittal in customary form and containing such provisions as Arbor may reasonably specify, and (ii) instructions for use in effecting the surrender of AppSource stock certificates in exchange for cash and certificates representing Arbor Common Stock. Upon surrender of an AppSource stock certificate to Arbor for exchange, together with a duly executed letter of transmittal and such other documents as may be reasonably required by Arbor, the holder of such AppSource stock certificate shall be entitled to receive in exchange therefor cash of \$3.02 per share and a certificate representing the number of whole shares of Arbor Common Stock that such holder has the right to receive pursuant to the provisions of this Article V, and the AppSource stock certificate so surrendered shall be canceled. Until surrendered as contemplated by this Section 5.3, each AppSource stock certificate shall be deemed, from and after the Effective Time, to represent only the right to receive upon such surrender cash of \$3.02 per share and a certificate representing shares of Arbor Common Stock (and cash in lieu of any fractional share of Arbor Common Stock) as contemplated by this Article V.

(b) No dividends or other distributions declared or made with respect to Arbor Common Stock with a record date after the Effective Time shall be paid to the holder of any unsurrendered AppSource stock certificate with respect to the shares of Arbor Common Stock represented thereby, and no cash payment in lieu of any fractional share shall be paid to any such holder, until such holder surrenders such AppSource stock certificate in accordance with this Section 5.3 (at which time such holder shall be entitled to receive all such dividends and distributions and such cash payment).

(c) No fractional shares of Arbor Common Stock shall be issued in connection with the Merger, and no certificates for any such fractional shares shall be issued. In lieu of such fractional shares, any holder of capital stock of AppSource who would otherwise be entitled to receive a fraction of a share of Arbor Common Stock (after aggregating all fractional shares of Arbor Common Stock issuable to such holder) shall, upon surrender of such holder's AppSource stock certificate(s), be paid in cash the dollar amount (rounded to the nearest whole cent), without interest, determined by multiplying such fraction by the Designated Arbor Stock Price.

**5.4 Dissenter's Shares.** Notwithstanding Section 5.1(a) of this Plan of Merger, shares of AppSource Common Stock issued and outstanding at the Effective Time which are held



by a holder who has not voted in favor of the Merger and who has demanded payment for such shares in accordance with Section 607.1320 of the Florida Business Corporation Act ("Dissenting AppSource Shares") shall not be converted into or represent the right to receive cash and Arbor Common Stock payable thereon pursuant to Section 5.1 (or cash in lieu of fractional shares in accordance with Section 5.3) of this Plan of Merger, and shall be entitled only to such rights of appraisal as are granted by Section 602.1320 of the Florida Business Corporation Act ("Dissenting Provisions"); unless and until such holder fails to perfect or effectively withdraws or otherwise loses his or her right to appraisal. If after the Effective Time any such holder fails to perfect or effectively withdraws or loses his right to appraisal, such shares of AppSource Common Stock shall be treated as if they had been converted at the Effective Time into the right to receive the cash and Arbor Common Stock payable thereon pursuant to Section 5.1 (and cash in lieu of fractional shares in accordance with Section 5.3(c)) of this Plan of Merger. Each dissenting shareholder that becomes entitled, pursuant to the Dissenting Provisions, to payment for any shares of AppSource Common Stock held by such dissenting shareholder shall receive payments therefor from Arbor (but only after the amount thereof shall have been agreed upon or at the times and in the amounts required by the Dissenting Provisions) and all of such dissenting shareholder's shares of AppSource Common Stock shall be canceled.

## ARTICLE VI

### CONDITIONS PRECEDENT TO MERGER

The obligations of Acquisitions, Arbor and AppSource to effect the Merger as herein provided shall be subject to satisfaction, at or prior to Closing, unless duly waived, of the following conditions:

The respective obligations of Arbor and Acquisitions to consummate the Merger are subject to the satisfaction of certain conditions, including: (a) the accuracy in all material respects of the representations and warranties made by AppSource, Daley Family, Ltd. ("Shareholder"), and Richard K. Daley ("Daley") in the Plan of Reorganization and in all other agreements and instruments delivered to Arbor in connection with the Merger; (b) compliance with and performance of all covenants required to be performed by AppSource, the Shareholder or Daley at or prior to the Closing; (c) the terms of the Merger shall have been duly approved by the affirmative vote of 100% of the shares of AppSource Common Stock entitled to vote with respect thereto; *provided, however*, that any shares of AppSource Common Stock owned by Showcase Corporation need not be included with such calculation; (d) all consents required to be obtained in connection with the Merger and the other transactions contemplated by the Plan of Reorganization shall have been obtained and shall be in full force and effect; (e) Arbor and Acquisitions shall have received certain agreements and documents, each of which shall be in full force and effect including: (i) the Escrow Agreement executed by each of the AppSource shareholders; (ii) noncompetition agreements executed by each of the AppSource shareholders; (iii) a release executed by each of the AppSource shareholders; (iv) confidential invention and assignment agreements, reasonably satisfactory in form and content to Arbor, executed by all employees of AppSource and by all consultants and independent contractors to AppSource who have not already signed such agreements; (v) a shareholder investment representation certificate

executed by each of the AppSource shareholders; (vi) an estoppel certificate, dated as of a date not more than five days prior to the Closing Date and satisfactory in form and content to Arbor, executed by Citadel Partners Limited; (vii) a legal opinion of John A. Leklem, P.A., counsel to AppSource, dated as of the Closing Date; (viii) certificates from each of Appsource, the Shareholder, and Daley to the effect that the representations and warranties set forth in the Plan of Reorganization are accurate in all respects as of the Closing Date as if made on the Closing Date and that certain conditions to the closing have been duly satisfied; (ix) written resignations of all directors of AppSource, effective as of the Effective Time; (x) a continuity of interest certificate executed by each of the AppSource shareholders; and (xi) a certain certificate and agreement executed by Richard K. Daley and Angela C. Daley; (f) AppSource shall have filed with the Internal Revenue Service the notification required under Section 1.897-2(h)(2) of the U.S. Treasury Regulations; (g) Showcase Corp. shall have exercised in full its warrant for 106,110 shares of Non-Voting Common Stock; (h) the issuance of the Arbor Common Stock shall be legally permitted by all laws and regulations to which the AppSource shareholders, AppSource and Arbor are subject; (i) each of the AppSource shareholders shall have received and read an Information Statement; (j) no temporary restraining order, preliminary or permanent injunction or other order preventing the consummation of the Merger shall have been issued by any court of competent jurisdiction and remain in effect, and there shall not be any legal requirement enacted or deemed applicable to the Merger that makes consummation of the Merger illegal; (k) no legal proceedings shall have commenced or been threatened challenging or seeking the recovery of a material amount of damages in connection with the Merger or seeking to prohibit or limit the exercise by Arbor of any material right pertaining to its ownership of the Arbor Common Stock; (l) certain of the AppSource employees shall have agreed to become employees of Arbor or shall not have ceased to be employed by, or expressed an intention to terminate their employment with, AppSource; (m) AppSource shall have provided Arbor with evidence, reasonably satisfactory to Arbor, as to the termination of all of its employment agreements with each of its employees; and (n) AppSource and the Shareholder shall have determined the aggregate amount of fees, costs and expenses incurred by or for the benefit of Appsource, Daley, the Shareholder, and the shareholders of Appsource, in connection with the transactions contemplated by the Plan of Merger as of the Closing Date, and the Shareholder and Daley shall pay the aggregate amount of such fees, costs and expenses in excess of \$50,000 prior to the Closing.

The obligation of AppSource to effect the Merger and otherwise consummate the transactions contemplated by the Plan of Merger are subject to the satisfaction, at or prior to Closing, unless duly waived, of certain conditions, including: (a) the accuracy in all material respects of Arbor's and Acquisitions' representations and warranties in the Plan of Reorganization; (b) performance, in all material respects, by Arbor and Acquisitions of all obligations and covenants required to be performed by them under the Plan of Reorganization; and (c) the absence of any restraining order, injunction or other order or legal requirement preventing the consummation of the Merger and the absence of any legal requirement enacted or deemed applicable to the Merger that makes consummation of the Merger illegal.

## **ARTICLE VII**

### **EFFECTIVE TIME OF THE MERGER**

The Articles of Merger evidencing the transactions contemplated herein shall be delivered for filing to the Secretary of State of the State of Delaware and the Department of State of the State of Florida. The Merger shall become effective at the time and on the date a certificate of merger is filed with and accepted by the Secretary of State of the State of Delaware and articles of merger are filed by the Department of State of the State of Florida (such date being referred to herein as the "Effective Time").

## **ARTICLE VIII**

### **ABANDONMENT AND TERMINATION**

Anything contained in this Plan of Merger to the contrary notwithstanding, and notwithstanding adoption hereof by the shareholders of AppSource and Acquisitions, this Plan of Merger may be terminated and the Merger abandoned at any time prior to the Effective Time (a) by mutual written consent of Arbor, Acquisitions and AppSource, (b) by Arbor, if there shall have been a violation or breach by any of AppSource, the Shareholder or Daley of any material agreement, representation or warranty contained in the Plan of Reorganization which has rendered the satisfaction of any condition to the obligations of Arbor and Acquisitions impossible and such violation or breach has not been waived by Arbor, (c) by AppSource, if there shall have been a violation or breach by Acquisitions or Arbor of any material agreement, representation or warranty contained in the Plan of Reorganization which has rendered the satisfaction of any condition to the obligations of AppSource impossible and such violation or breach has not been waived by AppSource, or (d) by Arbor, Acquisitions or AppSource, if the Effective Time shall not have occurred on or before 30 days after the date of the Plan of Reorganization.

## **ARTICLE IX**

### **MISCELLANEOUS**

**9.1** Any notice or other communication required or permitted under this Plan of Merger shall be given, and shall be effective, in accordance with the provisions of the Plan of Reorganization.

**9.2** The headings of the several Articles herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Plan of Merger.

The parties hereto have caused this Plan of Merger to be executed and delivered as of the date set forth above.

**AS ACQUISITIONS CORP.**

By: 

Name: Stephen V. Imbler  
Title: President

**APPSOURCE CORPORATION**

By: 

Name: Richard K. Daley  
Title: President

**ARBOR SOFTWARE CORPORATION**

By: 

Name: Stephen V. Imbler  
Title: President

**SECTION I**  
**(1-3 MUST BE COMPLETED)**

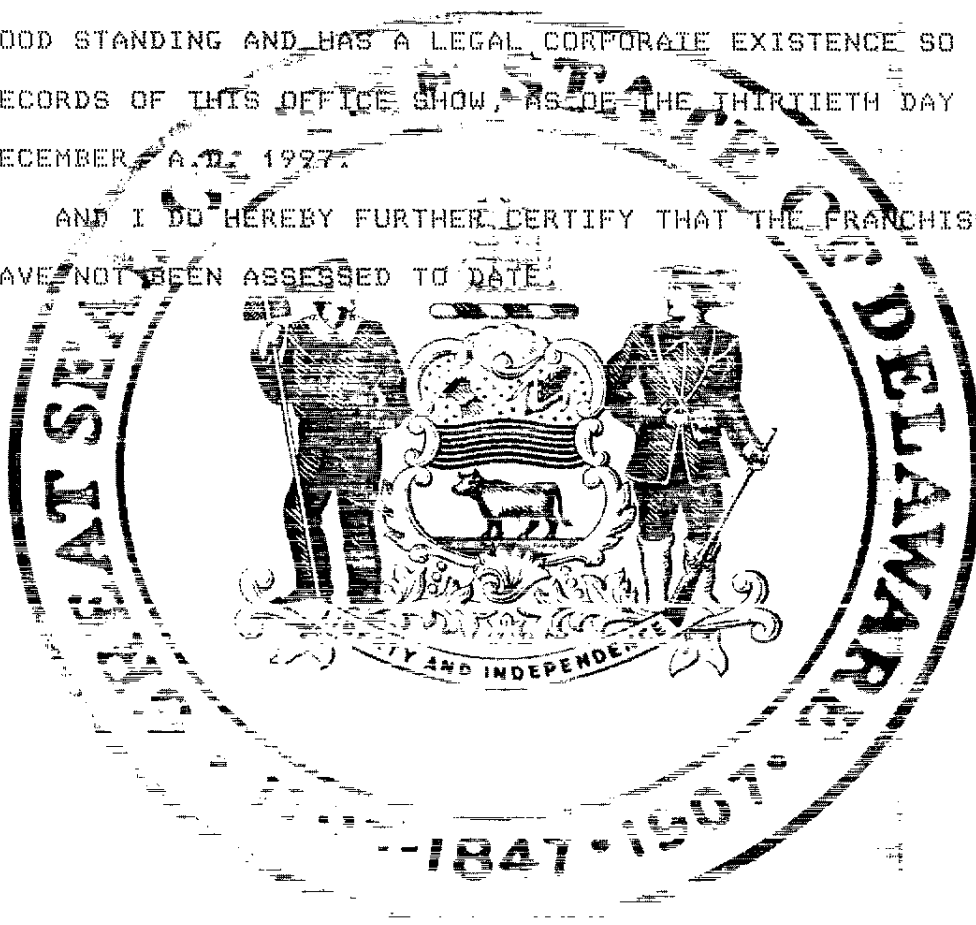
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DIVISION OF CORPORATIONS  
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President, Chief Executive Officer,  
Title  
Chief Financial Officer and Treasurer

Office of the Secretary of State

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "APPSOURCE CORPORATION" IS DULY INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL CORPORATE EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE THIRTIETH DAY OF DECEMBER, A.D. 1997.

AND I DO HEREBY FURTHER CERTIFY THAT THE FRANCHISE TAXES HAVE NOT BEEN ASSESSED TO DATE.



*Edward J. Freel*

Edward J. Freel, Secretary of State

2828052 8300

971452677

AUTHENTICATION: 8841153

DATE: 12-30-97

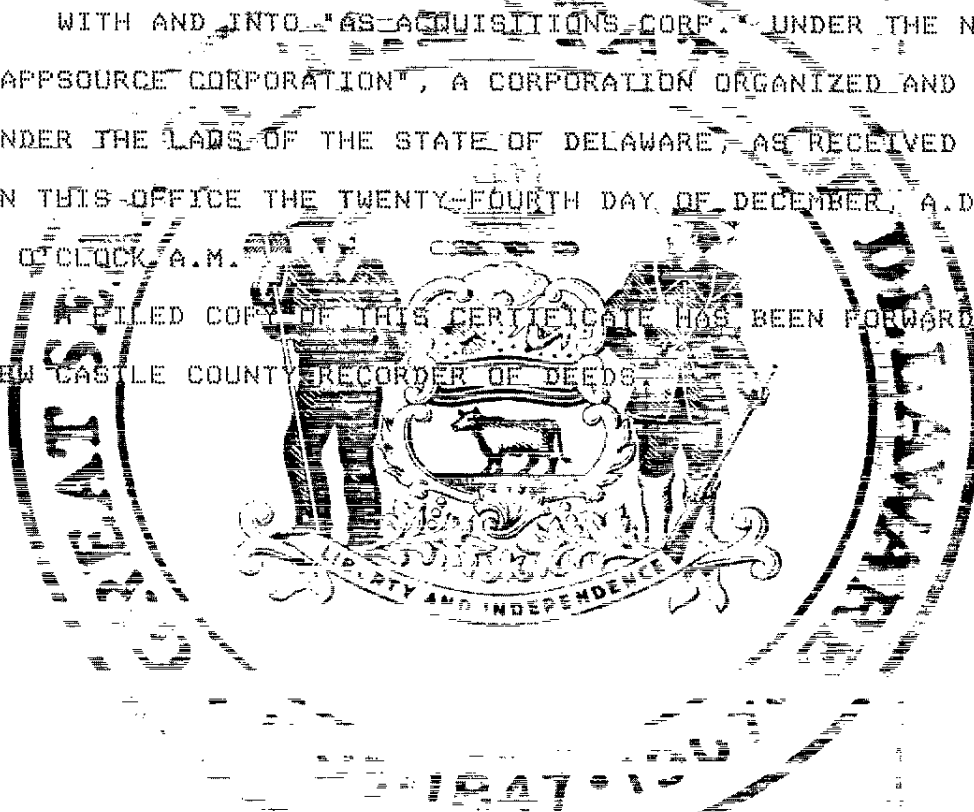
*State of Delaware*  
*Office of the Secretary of State*

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF MERGER, WHICH MERGES:

"APPSOURCE CORPORATION", A FLORIDA CORPORATION,

WITH AND INTO "AS ACQUISITIONS CORP." UNDER THE NAME OF "APPSOURCE CORPORATION", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE TWENTY-FOURTH DAY OF DECEMBER, A.D. 1997, AT 9 O'CLOCK A.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.



*Edward J. Freel*

Edward J. Freel, Secretary of State

2828052 8100M

971447607

AUTHENTICATION: 8837430

DATE: 12-29-97

**CERTIFICATE OF MERGER  
MERGING  
APPSOURCE CORPORATION  
WITH AND INTO  
AS ACQUISITIONS CORP.**

Pursuant to Section 252 of the General Corporation Law of  
the State of Delaware

AS Acquisitions Corp. ("AS Acquisitions") does hereby certify as follows:

**FIRST:** That the constituent corporation AS Acquisitions was incorporated pursuant to the Delaware General Corporation Law (the "DGCL"), and the constituent corporation AppSource Corporation ("AppSource") was incorporated pursuant to the Florida Business Corporation Act (the "FBCA").

**SECOND:** That an Agreement and Plan of Merger and Reorganization (the "Reorganization Agreement"), setting forth the terms and conditions of the merger of AppSource with and into AS Acquisitions (the "Merger"), has been approved, adopted, certified, executed and acknowledged by each of the constituent corporations in accordance with the requirements of Section 252(c) of the DGCL.

**THIRD:** That AS Acquisitions shall be the surviving corporation after the Merger (the "Surviving Corporation"). The name of the Surviving Corporation shall be AS Acquisitions Corp.

**FOURTH:** That the amended and restated certificate of incorporation of the Surviving Corporation, with such amendments as are effected by the Merger, is attached to this Certificate of Merger as Exhibit A, and, as so amended, shall constitute the Certificate of Incorporation, as amended, of the Surviving Corporation. Article I of the Certificate of Incorporation, as amended, is being amended as follows: "I. The name of this corporation is 'AppSource Corporation.'"

**FIFTH:** That an executed copy of the Reorganization Agreement is on file at the principal place of business of the Surviving Corporation at the following address:

AS Acquisitions Corp.  
c/o Arbor Software Corporation  
1344 Crossman Avenue  
Sunnyvale, CA 94089

**SIXTH:** That a copy of the Reorganization Agreement will be furnished by the Surviving Corporation, on request and without cost, to any stockholder of any constituent corporation.

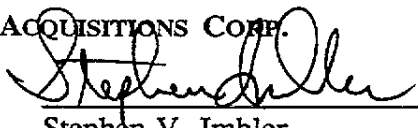


**SEVENTH:** That the Merger shall become effective upon the filing of this Certificate of Merger with the Secretary of State of the State of Delaware.

**IN WITNESS WHEREOF,** the Surviving Corporation has caused this Certificate of Merger to be executed in its corporate name this 24th day of December, 1997.


AS ACQUISITIONS CORP.

By:

  
Stephen V. Imbler  
President

**ATTEST:**

By:

  
Larry J. Braverman, Secretary

**EXHIBIT A**

**AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION  
OF  
APPSOURCE CORPORATION**

AppSource Corporation, a corporation organized and existing under the laws of the State of Delaware, hereby certifies that:

1. The original Certificate of Incorporation of this corporation was filed with the Secretary of State of the State of Delaware on December 11, 1997, under the name of AS Acquisitions Corp.

2. The Certificate of Incorporation of this corporation is hereby amended and restated to read as follows:

**I.**

The name of this corporation is "AppSource Corporation."

**II.**

The address of the registered office of the corporation in the State of Delaware is 1013 Centre Road, City of Wilmington, County of New Castle and the name of the registered agent of the corporation in the State of Delaware at such address is Corporation Service Company.

**III.**

The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of the State of Delaware.

**IV.**

This corporation is authorized to issue only one class of stock, to be designated Common Stock. The total number of shares of Common Stock presently authorized is one hundred (100), each having a par value of one-tenth of one cent (\$0.001).

**V.**

The management of the business and the conduct of the affairs of the corporation shall be vested in its Board of Directors. The number of directors which shall constitute the whole Board of Directors shall be fixed by the Board of Directors in the manner provided in the Bylaws.

## VI.

a. A director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for any breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law (iii) under Section 174 of the Delaware General Corporation Law, or (iv) for any transaction from which the director derived an improper personal benefit. If the Delaware General Corporation Law is amended after approval by the stockholders of this Article to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director shall be eliminated or limited to the fullest extent permitted by the Delaware General Corporation Law, as so amended.

b. Any repeal or modification of this Article VI shall be prospective and shall not affect the rights under this Article VI in effect at the time of the alleged occurrence of any act or omission to act giving rise to liability or indemnification.

## VII.

The corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon the stockholders herein are granted subject to this reservation.

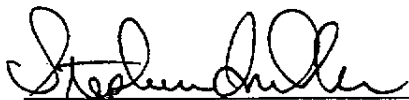
\* \* \* \*

3. This Amended and Restated Certificate of Incorporation has been duly approved by the Board of Directors of this Corporation.


4. This Amended and Restated Certificate of Incorporation has been duly adopted in accordance with the provisions of Sections 242 and 245 of the General Corporation Law of the State of Delaware by the Board of Directors and the stockholders of the Corporation.

IN WITNESS WHEREOF, APPSOURCE CORPORATION has caused this Amended and Restated Certificate of Incorporation to be signed by the President and the Secretary in Palo Alto, California this 24th day of December, 1997.

APPSOURCE CORPORATION

By:   
Stephen V. Imbler  
President

ATTEST:

By:   
Larry J. Braverman  
Secretary